

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

DEUCE INVESTMENTS, INC.

DEBTOR

CASE NO:

10-01083-8-RDD

CHAPTER 11

**OBJECTION TO MOTION FOR APPROVAL OF PRIVATE SALE AND MOTION TO
SELL PROPERTY FREE AND CLEAR OF LIENS AND OTHER INTERESTS WITH
LIENS TO ATTACH TO PROCEEDS PURSUANT TO 11 U.S.C. § 363(f)**

NOW COMES Branch Banking and Trust Company ("BB&T"), by and through undersigned counsel, and hereby objects to the Motion for Approval of Private Sale and Motion to Sell Property Free and Clear of Liens and Other Interests with Liens to Attach to Proceeds Pursuant to 11 U.S.C. § 363(f) filed by Deuce Investments, Inc. (the "Debtor"). In support hereof the Movant shows as follows:

1. This court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 151, 157, and 1334.
2. Upon information and belief, the Debtor owns certain real property located in Johnston County, North Carolina and more particularly described in Book 3488, Page 325 of the Johnston County Register of Deeds as "Being All of Tract 3, containing 26.31 acres, as shown on plat recorded in Plat Book 18, page 25, Johnston County Registry, to which reference is hereby made for a more particular description" (the "Property").
3. According to the Debtor's schedules, the value of the Property is approximately \$450,000.00.
4. BB&T holds a first priority perfected security interest in the Property pursuant to a Promissory Note in the principal amount of \$249,000.00 (the "Note") and North Carolina Deed of Trust and Security Agreement (the "Deed of Trust") recorded in Book 3488, Page 325 of the Johnston County Register of Deeds. Copies of the Note and Deed of Trust are attached to the proof of claim filed by BB&T in the above-referenced case on February 26, 2010.
5. The outstanding balance under the Note, as of March 23, 2010, was \$259,666.68, which includes interest in the amount of \$5,846.31, late fees in the amount of \$2,176.00, and \$2,644.37 in attorneys' fees. Interest continues to accrue under the Note at the per diem rate of \$39.7708.

6. Upon information and belief, the Debtor has received an offer to purchase the Property for the price of \$259,666.68. According to the Debtor's Motion, the potential purchaser has agreed to pay a per diem of \$39.7708 to BB&T from March 23, 2010 until the closing date of the sale.
7. BB&T objects to the relief requested in the Debtor's Motion for Approval of Sale to the extent that BB&T's claim would not be paid in full from the proceeds of a sale. Although the Debtor asserts in its Motion that the sale of the Property satisfies "a significant claim against the estate," the Debtor fails to expressly indicate that BB&T's claim will be paid in full from the proceeds of sale.
8. BB&T objects to the Debtor's request to sell the Property free and clear of liens under § 363(f). It is unclear from the Debtor's request for relief whether the sale would produce a surplus for the benefit of the estate. Based on the proposed sale price and the anticipated costs and fees related to any sale, a sale free and clear of liens would serve no benefit to the estate and would be prejudicial to BB&T's security interest.
9. The Debtor fails to satisfy any of the conditions necessary for a sale free and clear of liens under § 363(f).
10. BB&T objects to the imposition of any costs against its claim pursuant to 11 U.S.C. 506(c).

WHEREFORE, Branch Banking and Trust Company respectfully prays the Court as follows:

1. That the Court enter an Order denying the Debtor's Motion for Approval of Private Sale;
2. That the Court deny the Debtor's Motion to Sell Property Free and Clear of Liens and Other Interests with Liens to Attach to Proceeds Pursuant to 11 U.S.C. § 363(f);
3. That the Court schedule and conduct a hearing on this matter; and
4. For such other and further relief as the Court deems just and proper.

This 29th day of April, 2010.

HOWARD, STALLINGS, FROM & HUTSON, P.A.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that she is over eighteen (18) years of age and the **OBJECTION TO MOTION FOR APPROVAL OF PRIVATE SALE AND MOTION TO SELL PROPERTY FREE AND CLEAR OF LIENS AND OTHER INTERESTS WITH LIENS TO ATTACH TO PROCEEDS PURSUANT TO 11 U.S.C. § 363(f)** was this day served upon the below named persons, parties and/or counsel by mailing, postage prepaid, first class mail, a copy of such instruments to such persons, parties and/or counsel at the address shown below:

Marjorie K. Lynch, Esquire Bankruptcy Administrator Post Office Box 3758 Wilson, North Carolina 27894-3758	Laurie B. Biggs Stubbs & Perdue, P.A. 8450 Falls of Neuse Rd., Ste. 206 Raleigh, NC 27615
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Dated: April 29, 2010



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